

REMARKS/ARGUMENTS

Upon entry of this Amendment, claims 1-4 and 6-15 are all the claims pending in the application. Claims 1, 4 and 7 have been amended to place objected claims 5, 4 and 7 in independent form and claim 5 has been canceled.

Summary of Final Office Action

The Examiner has rejected claims 1-4, 10, 14 and 15. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Barton (6,652,119). Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton. Claims 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sommers (6,966,684) in view of McKillip (5,285,361).

Claims 5-9 and 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response

Claims 1, 3 and 6

Independent claim 1 has been amended to include the subject matter of allowable claim 5. Accordingly, claim 1 should now be in condition for immediate allowance and such action is kindly requested. Claim 5 has been canceled.

Claim 3 and claim 6, as amended, each depend from allowable claim 1 and, thus, each of these claims should be found in condition for allowance for at least the same reason(s) as claim 1.

Claims 2 and 4

Claims 2 and 4 have been amended to include all the subject matter of their respective independent claim, claim 1. Claims 2 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barton. For the following reason, Applicant respectfully traverses this rejection. The grounds of rejection assert that Barton discloses all of the requirements of claims 2 and 4 except for the bulb arrangement in a circular perimeter and a circular mirror, respectively. Further, the grounds assert that it would have been obvious “to make the device [disclosed in Barton] circular... since it has been held that a mere change in shape of an element is generally recognized as being within the level of ordinary skill in the art when the change in shape is not significant to the function of the combination.” (Final Office Action, Page 3, emphasis added).

Here, however, shape is, in fact, significant to the function of the claimed combination and, thus, changing the rectangular arrangement of bulbs and rectangular shape of the reflector in Barton to a circular arrangement of bulbs and/or circular reflector shape would not have been obvious. For example, as expressly disclosed in the present specification, the circular arrangement of the base and the circular reflective mirror “allows a maximum amount of light to be reflected from the interior to the outside.” (Specification, Par. No. [0013]). The rectangular configuration of lamps disclosed in Barton does not enjoy this maximum light reflection at least because the reflective surfaces are flat and, thus any reflection therefrom is directed in a single direction.

Because the shape of the light source arrangement and the shape of the reflective mirror claimed, respectively, in claims 2 and 4 is significant the claimed combination, the

asserted obviousness of these claims is in error and the rejection of these claims should be withdrawn.

Claims 7-9

Allowable dependent claim 7 has been amended to include all the subject matter of its independent claim, claim 1. Claim 7, thus, is now in condition for immediate allowance and such action is kindly requested.

Claim 8 and claim 9, as amended, each depend from allowable claim 7 and, thus, each of these claims should be found in condition for immediate allowance for at least the same reason(s) as claim 7.

Claims 10-15

Regarding independent claim 10, the grounds of rejection assert that the claimed combination of elements would have been obvious in view of the disclosures of Sommers and McKillip. For the following reasons Applicant respectfully traverses this rejection. In particular, Applicant respectfully submits that contrary to that which asserted in the grounds of rejection, it would not have been obvious to one of ordinary skill in the art to replace the LEDs (16) disclosed in Sommers with the U-shaped gas discharge bulb (11) disclosed in McKillip.

The grounds of rejection assert that such a modification to the Sommers device would have been obvious "in order to minimize the number of light sources and simplify the replacement of burned out bulbs." Applicant submits that this line of reasoning does not rise to the level of suggestion and motivation required to render the claimed subject

matter obvious under 35 U.S.C. §103. That is, the grounds of rejection fail to establish a *prima facie* case of obviousness.

Indeed, it has been held by the Court of Appeals for the Federal Circuit (CAFC), that an *implicit* motivation to combine may be present “when the ‘improvement’ is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient.” *Dystar Textilfarben GmbH v. C.H. Patrick Co.*, 464 F.3d 1356, 1368 (Fed. Cir. 2006). Here, the examiner asserts without any support, that a skilled artisan would have known that by replacing the LEDs in the lighting apparatus of Sommers with gas discharge bulbs, the number of light sources would allegedly be minimized, resulting in a simplified bulb replacement process. This assertion is unsupported by the record and the examiner has failed to cite any supporting authority from beyond the record. In particular, the examiner has failed to explain why or how the number of light sources would be minimized and why or how the bulb replacement process would be simplified. For this reason alone the grounds of rejection fail to establish a *prima facie* case of obviousness and should be withdrawn.

More importantly, however, there exists no evidence in the record, and the examiner points to none, which indicates that the lighting apparatus disclosed in Sommers et al. would be “improved” and/or “more desirable” if the LEDs were replaced with a gas discharge lamp. That is, even if it were sufficiently demonstrated that the number of light sources would be minimized and/or the bulb replacement process would

be simplified if the proposed modification were made, there is no evidence in the record that the overall device would be “improved” or “more desirable.” In fact, Applicant respectfully submits that the opposite is actually the case.

For example, a skilled artisan would have known that gas discharge lamps are significantly more expensive than LEDs and, further, that LEDs have a much higher luminous efficiency than gas discharge lamps. Accordingly, the lighting device disclosed in Sommers would not be improved if the proposed modification was made and, in fact, the device would be less desirable. Furthermore, gas discharge lamps have been in existence since at least the late 1800s. Practical luminous LEDs have only been around since the early 1960s. Clearly, if the readily available gas discharge lamp was an obvious interchangeable improvement over the LED in the context of the Sommers device, the gas discharge lamp would have been used initially. A skilled artisan would simply not have been motivated to make the proposed modification to the Sommers device. The proposed modification would have rendered the disclosed device less efficient, e.g., more expensive to operate and it would output less light. Moreover, the resulting device would have been more expensive to build in the first instance.

For the reasons set forth above, a *prima facie* case of obvious has not been established and, further, the proposed modification is contrary to the general knowledge of one of ordinary skill in the art. Accordingly, the rejection of independent claim 10 as well as claims 14 and 15, which depend directly from claim 10, is improper and should be withdrawn. Dependent claims 11-13 are allowable for at least the same reasons.

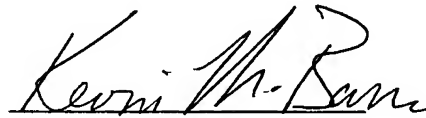
U.S. Appln No. 10/817,057
Amdt. dated January 16, 2007
Reply to Office action of November 6, 2006

Conclusion

In view of the above amendments and remarks, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 18-2220. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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